
CHAPTER 7: COMMUNITY CHOICES WAIVER

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RECIPIENT RIGHTS AND RESPONSIBILITIES

Recipients have specific rights and responsibilities that accompany eligibility and participation in the Medicaid and Medicaid waiver programs. Support coordinators and service providers must assist recipients to exercise their rights and responsibilities. Every effort must be made to assure that applicants or recipients understand their available choices and the consequences of those choices. Support coordinators and service providers are bound by their provider agreement with Medicaid to adhere to the following policies on recipient rights.

Each individual who requests Community Choices Waiver services has the option to designate a responsible representative to assist or act on his/her behalf in the process of accessing and/or maintaining Community Choices Waiver services. The responsible representative may not concurrently serve as a responsible representative for more than two recipients in a Medicaid home and community-based service program that is operated by the Office of Aging and Adult Services which includes, but is not limited to:

- The Program of All-Inclusive Care for the Elderly (PACE),
- Long-term Personal Care Services (LT-PCS),
- The Community Choices Waiver, and
- The Adult Day Health Care (ADHC) Waiver

Freedom of Choice of Program

Individuals who have been offered waiver services have the freedom to choose between institutional care services and community-based services. They have the responsibility to participate in the evaluation process which includes providing the medical and other pertinent information or assisting in obtaining it for use in the person-centered planning process and certification for services. When applicants are admitted to the waiver, they have access to an array of Medicaid services.

Freedom of Choice of Providers

Recipients have the freedom of choice to select their service providers. Recipients may make provider changes based on the following schedule:

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Type of Service Provider	Without Good Cause	With Good Cause
Transition Service	Not applicable	Not applicable
Personal Assistance Service	Every 3 months	Any time
Transition Intensive Support Coordination Support Coordination Environmental Accessibility Adaptation Adult Day Health Care Skilled Maintenance Therapy Nursing Assistive Devices and Medical Supplies Caregiver Temporary Support Service Home Delivered Meals Monitored In-Home Caregiving Services	Every 6 months	Any time

NOTE: The change is based on a calendar year with the change effective beginning the first day of the following quarter.

The Office of Aging and Adult Services (OAAS), or its designee will provide recipients with their choice of support coordination providers.

Support coordinators will provide recipients with their choice of all other waiver service providers and help arrange and coordinate all the services on the Plan of Care.

Adequacy of Care

All recipients in Louisiana's home and community-based waiver programs have the right to choose and receive the services necessary to support them to live in a community setting. Services are arranged and coordinated through the support coordination system and approved by the OAAS regional office or its designee. Administrative limits are placed on some services according to the waiver that is authorized by the Center for Medicare and Medicaid Services (CMS).

Recipients have the responsibility to request only those services they need and not request excess services, or services for the convenience of providers or support coordinators. Units of service are not "saved up". The services are certified as medically necessary for the recipient to be able

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to stay in the community and are revised on the Plan of Care as each recipient's needs change.

Participation in Care

Each recipient shall participate in assessment and person-centered planning meetings and any other meeting involving decisions about services and supports to be provided as part of the waiver process. Each recipient may choose whether or not providers attend assessment and planning meetings. Person-centered planning will be utilized in developing all services and supports to meet the recipient's needs. By taking an active part in planning his/her services, the recipient is better able to utilize the available supports and services. The recipient shall report any service need change to his/her support coordinator and service provider(s).

Changes in the amount of services must be requested by the recipient and submitted by the support coordinator at least 14 calendar days before taking effect, except in emergencies. Providers may not initiate a request for change/adjustment of service(s) without the participation and consent of the recipient. These changes must be approved by the OAAS regional office or its designee.

Voluntary Participation

Recipients have the right to refuse services, to be informed of the alternative services available to them, and to know the consequences of their decisions. Therefore, a recipient will not be required to receive services that he/she may be eligible for but does not wish to receive. The intent of the Community Choices Waiver is to provide community-based services to individuals who would otherwise require care in a nursing facility. Providers must reasonably assure that the recipient's health and welfare needs are met. As part of the planning process, methods to comply with these assurances may be negotiated to suit the recipient's needs and outcomes.

Quality of Care

Each recipient of home and community-based waiver services has the right to receive services from providers whose employees have been trained and are qualified to provide them. In cases where services are not delivered according to the approved Plan of Care or there is abuse or neglect on the part of the service provider, the recipient shall follow the complaint and/or abuse/neglect reporting procedures. Recipients and providers shall cooperate in the investigation and resolution of the reported incident. Recipients may not request providers to perform tasks that are illegal or inappropriate, and they may not violate the rights of other recipients.

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Civil Rights

Providers shall operate in accordance with Title VI and VII of the Civil Rights Act of 1964, as amended and the Vietnam Veterans Readjustment Act of 1974 and all requirements imposed by or pursuant to the regulations of the U.S. Department of Health and Human Services. This means that individuals are accepted and that all services and facilities are available to persons without regard to race, color, religion, age, sex, or national origin. Recipients have the responsibility to cooperate with their providers by not requesting services which in any way violate these laws.

Notification of Changes

The Bureau of Health Services Financing (BHSF) is responsible for determining financial eligibility for the Community Choices Waiver recipients. In order to maintain eligibility, recipients have the responsibility to inform BHSF of changes in their income, resources, address, and living situation.

The OAAS or its designee is responsible for approving level of care and waiver certification. In order to maintain this certification, recipients have the responsibility to inform the OAAS, through their support coordinator, of any significant changes which may affect their level of care or waiver certification. Providers may not approve or deny the recipient's level of care or waiver certification.

Grievances/Fair Hearings

The recipient has a responsibility to bring problems to the attention of providers or the Department of Health and Hospitals and to participate in the grievance or appeal process.

All support coordination and direct service providers shall have grievance procedures through which recipients may grieve the supports or services they receive. Recipients must be advised of the right to file a grievance, their rights to a fair hearing and the process for an appeal through the Division of Administrative Law. In the event of a fair hearing, a representative of the support coordination agency shall participate by telephone, or if requested, appear in person and participate in the proceedings.

An appeal by the recipient may be filed at the local Medicaid Office or with the Division of Administrative Law. (See Appendix A for contact information)

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Complaint/Help Lines

Toll-free numbers are available to provide waiver assistance, clarification of waiver services, and reporting complaints regarding waiver services including reports of abuse, neglect and exploitation. (See Appendix A for contact information)

These toll-free numbers are accessible within the State of Louisiana.

Rights and Responsibilities Form

The support coordinator is responsible for reviewing the recipient's rights and responsibilities with the recipient and/or his/her personal representative as part of the initial intake process and at least annually thereafter. (See Appendix B for information on accessing the *Office of Aging and Adult Services (OAAS) Rights and Responsibilities for Applicants/Participants of Home and Community-Based Waiver Services (HCBWS)* form)